

DATE: October 22, 2003

TO: Gambling Control Commission

FROM: Gary Qualset, Deputy Director
Licensing and Compliance Division

SUBJECT: Revenue Sharing Trust Fund Report of Distribution of Funds to Non-Compact Tribes for the Quarter Ended September 30, 2003

ISSUE: *Can the Gambling Control Commission (Commission) make a current quarterly distribution from the Indian Gaming Revenue Sharing Trust Fund (IGRSTF) to each eligible Non-Compact Tribe for the quarter ended September 30, 2003?*

The Commission has a fiduciary responsibility for the IGRSTF as Trustee of the IGRSTF per all of the Tribal-State Gaming Compacts (Compacts) as noted in Section 4.3.2(a)(ii). Additionally, the Commission shall make distributions in accordance with Sections 4.3.2.1(a) and (b).

The IGRSTF serves as the depository for payments made by Tribes that acquire and maintain gaming device licenses and interest income earned by the IGRSTF. The process for allocating licenses and the awarding thereof by the Trustee is outlined in Section 4.3.2.2. This Section also specifies the amounts that shall be paid for license fees.

To date, the Commission has approved the distribution of approximately \$86.1 million in license fees and interest income from the IGRSTF covering twelve fiscal quarters from July 1, 2000 through June 30, 2003. The current distribution being proposed will make a distribution of the actual amount of license fees received and any interest income that may have been deposited in the IGRSTF for the quarter ended September 30, 2003, leaving an undistributed balance of license fees, payments received, and interest income in the IGRSTF as of that date of less than \$1.00.

In addition to license fees and interest income, during the quarter a total of \$50,568,787.99 was transferred from the Indian Gaming Special Distribution Fund to the IGRSTF pursuant to Assembly Bill No. 673 (Chapter 210, Statutes of 2003). The enacted bill added Government Code section 12090.90 that provides for methodologies of determining the maximum possible amount of transfer and distribution of these moneys.

Total license fees, payments received, and interest earned and deposited into the IGRSTF for the quarter ended September 30, 2003 amounted to approximately \$8.4 million. This consisted of \$1.25 million of prepayment license fees, and \$7.15 million of quarterly license fees and payments received. Approximately \$54,000 of interest income was also deposited into the IGRSTF during the quarter.

As shown in Exhibit 1, all eligible tribes will be receiving \$120,654.74 for this distribution. A portion of the interest earned is allocated to previously approved distributions held in trust in the IGRSTF on behalf of two (2) tribes. The principal and interest held are pending distribution. The remaining receipts are equally distributed to seventy tribes listed in Exhibit 1 as eligible Non-Compact recipient tribes (pending receipt of outstanding eligibility certification forms, if any). Thus, the equal share distribution amount per tribe for this quarter is as noted above.

At the end of the calendar quarter for distribution and as of the close of business on September 30, 2003, the amount of outstanding license fee payments due into the IGRSTF was approximately \$2.97 million. If the total license fee payments due at the end of this quarter had

been paid into the IGRSTF, recipient tribes would have received \$42,547.17 in additional moneys along with this quarter's distribution. The Commission makes quarterly distributions on a cash basis based on the amount of available funds in the IGRSTF each quarter. Total license fee payments outstanding and due for the quarter ended September 30, 2003 are summarized in Table 1 below:

Table 1		
Indian Gaming Revenue Sharing Trust Fund License Fee Payment Aging Schedule as of September 30, 2003		
Quarter(s) in Arrears	Number of Tribes	Amount of License Fees Due
Less than 1	2	\$707,789.72
1	7	2,270,512.50
Totals	9	\$2,978,302.22

Compact Section 4.3.2.3 provides that a tribe shall not conduct any gaming activity authorized by the Compact if the tribe is more than two quarterly contributions in arrears in its license fee payments into the IGRSTF. The Commission, as trustee, sends out regular quarterly invoices for the payment of license fees near the beginning of each quarter. Additionally, the Commission follows standard collection practices, which includes noticing those of past due amounts, and has initiating procedures if action is needed under the provisions of Compact Section 4.3.2.3 noted above.

The distribution amounts for each tribe that are presented in the attached report are subject to audit and subsequent verification of eligibility by the Commission. In accordance with the Commission's methodology for determining a Non-Compact Tribe, it is also being recommended that this distribution be on a conditional basis pending receipt of certification of the maximum number of gaming devices operated during the quarter by each tribe that is required to submit a completed certification form. Tribes that are required to complete the certification form are those tribes that entered into Compacts with the State of California and have operated less than three hundred-fifty gaming devices during the entire previous quarter.

Pursuant to Item 0855-101-0366 of the Budget Act of 2003, \$46 million was appropriated for distribution to non-compact tribes. Per Provision 3 of Item 0855-101-0366, the following items are requested according to control language as part of any request to augment Item 0855-101-0366. Although no augmentation is being requested with this distribution, we are submitting the following report information voluntarily.

1. The Methodology for Determining a Non-Compact Tribe

Per Section 4.3.2(a)(i) of the Compact, the term "Compact Tribe" and "Non-Compact Tribe" is defined as:

A "Compact Tribe" is a tribe having a compact with the State that authorizes the Gaming Activities authorized by this Compact. Federally-recognized tribes that are operating fewer than 350 Gaming Devices are "Non-Compact Tribes." Non-Compact Tribes shall be deemed third party beneficiaries of this and other compacts identical in all material respects. A Compact Tribe that becomes a Non-Compact Tribe may not thereafter return to the status of a Compact Tribe for a period of two years becoming a Non-Compact Tribe (sic).

For this distribution from the IGRSTF, the Commission used the following procedures as the methodology for determining if a tribe is a Non-Compact Tribe:

- A. Identify all tribes in the State of California that are Federally-recognized based on information obtained from the U. S. Department of Interior, Bureau of Indian Affairs, and a legal opinion received from the State Attorney General's Office.
- B. Request that each Non-Compact Tribe that entered into Compacts with the State that is to receive a distribution certify the maximum number of gaming devices operated during the quarter by completing and filing a Tribal-State Compact Gaming Device Certification Form (CGCC-C2003.01). Receive this form from each eligible tribe in accordance with the streamlined verification procedure implemented by the Commission. This form was mailed to Tribes for completion and filing and is also available on the Commission's website at www.cgcc.ca.gov.
- C. Classify all tribes identified in step A based on the information obtained in Step B as either: 1) Compact Tribes operating 350 or more gaming devices, 2) Non-Compact Tribes as defined by the Compact, or 3) non-compacted gaming tribes.
- D. Classify all Non-Compact Tribes identified in part 2) of step C as eligible Non-Compact non-gaming tribes and Non-Compact gaming tribes that have submitted the requested certification form to the Commission if required.
- E. Prepare a list of Non-Compact Tribes based on the most recent information reported to the Commission.

2. A list of the Non-Compact Tribes Identified Based on the Commission's Methodology

A list of all Non-Compact Tribes as identified by the methodology identified in item 1 above is attached as Exhibit 1.

3. A Trust Fund Condition Report Including the Amount of Revenue Received From Each Compact Tribe

A trust fund condition statement for the IGRSTF through September 30, 2003, for fiscal year 2003-04 is attached as Exhibit 2. A listing of the unaudited amount of revenue from each Compact Tribe as received by the Commission is attached as Exhibit 3.

4. The Amount of Funds to be Distributed to Each Non-Compact Tribe

The amount of funds to be distributed to each Non-Compact Tribe is listed in Exhibit 1 that is attached. The recommended distribution to each tribe listed in Exhibit 1 is subject to verification of eligibility and receipt of a Tribal-State Compact Gaming Device Certification Form (CGCC-C2003.01) if required.

RECOMMENDATION: *It is recommended that:*

1) the Commission approve the current full quarterly distribution of approximately \$8.4 million of all payments made by tribes and any interest income received by the IGRSTF during the most recent quarter ended September 30, 2003, to the listed tribes that are determined to be eligible Non-Compact Tribes in accordance with the Commission's identified methodology for determining a Non-Compact Tribe as shown in Exhibit 1 attached to this report, and

2) approval of distributions shall be made on a conditional basis subject to receipt of any required eligibility certification of the maximum number of gaming devices operated during the quarter by each tribe that is required to submit a completed certification form.

Exhibit 1**Non-Compact Tribes Eligible to Receive a Distribution from the IGRSTF (Based on the Commission's Methodology) and the Amount of Funds Recommended for Distribution**

Non-Compact Indian Tribe	Amount of Funds Recommended to be Distributed
Alturas Indian Rancheria	\$120,654.74
Bear River Band of the Rohnerville Rancheria	120,654.74
Benton Paiute Reservation	120,654.74
Big Lagoon Rancheria	120,654.74
Big Pine Reservation	120,654.74
Big Sandy Rancheria	120,654.74
Bridgeport Paiute Indian Colony	120,654.74
Buena Vista Rancheria	120,654.74
Cahto Indian Tribe of the Laytonville Rancheria	120,654.74
Cahuilla Band of Mission Indians	120,654.74
California Valley Miwok Tribe	120,654.74
Cedarville Rancheria	120,654.74
Chemehuevi Indian Tribe	120,654.74
Cher-Ae Heights Indian Community	120,654.74
Chicken Ranch Rancheria	120,654.74
Cloverdale Rancheria	120,654.74
Cold Springs Rancheria	120,654.74
Colorado River Indian Tribes	120,654.74
Cortina Rancheria	120,654.74
Cuyapaipe Community of Mission Indians	120,654.74
Death Valley Timbi-Sha Shoshone Tribe	120,654.74
Elem Indian Colony	120,654.74
Elk Valley Rancheria	120,654.74
Enterprise Rancheria	120,654.74
Fort Bidwell Indian Community	120,654.74
Fort Independence Reservation	120,654.74
Fort Mojave Indian Tribe	120,654.74
Graton Rancheria	120,654.74
Greenville Rancheria	120,654.74
Grindstone Rancheria	120,654.74
Guidiville Rancheria	120,654.74
Hoopla Valley Tribe	120,654.74
Inaja-Cosmit Mission Indians	120,654.74

Exhibit 1 (Continued)**Non-Compact Tribes Eligible to Receive a Distribution from the IGRSTF (Based on the Commission's Methodology) and the Amount of Funds Recommended for Distribution**

Non-Compact Indian Tribe	Amount of Funds Recommended to be Distributed
Ione Band of Miwok Indians	120,654.74
Jamul Indian Village	120,654.74
Karuk Tribe of California	120,654.74
La Jolla Band of Mission Indians	120,654.74
La Posta Band of Mission Indians	120,654.74
Lone Pine Reservation	120,654.74
Los Coyotes Band of Cahuilla Indians	120,654.74
Lower Lake Rancheria	120,654.74
Lytton Rancheria	120,654.74
Manchester Point Arena Rancheria	120,654.74
Manzanita Mission Indians	120,654.74
Mechoopda Indian Tribe	120,654.74
Mesa Grande Mission Indians	120,654.74
Northfork Rancheria	120,654.74
Paiute Bishop Community	120,654.74
Pinoleville Reservation	120,654.74
Pit River Tribe	120,654.74
Potter Valley Rancheria	120,654.74
Quartz Valley Indian Community	120,654.74
Quechan Tribe of Fort Yuma	120,654.74
Ramona Mission Indians	120,654.74
Redwood Valley Rancheria	120,654.74
Resighini Rancheria	120,654.74
Round Valley Indian Tribe	120,654.74
Santa Rosa Band of Cahuilla Mission Indians	120,654.74
Santa Ysabel Mission Indians	120,654.74
Scotts Valley Band of Pomo Indians	120,654.74
Sherwood Valley Pomo Indians	120,654.74
Shingle Springs Rancheria	120,654.74
Smith River Rancheria	120,654.74
Stewarts Point Rancheria	120,654.74
Susanville Indian Rancheria	120,654.74
Table Bluff Reservation	120,654.74
Torrez-Martinez Mission Indians	120,654.74

Exhibit 1 (Continued)**Non-Compact Tribes Eligible to Receive a Distribution from the IGRSTF (Based on the Commission's Methodology) and the Amount of Funds Recommended for Distribution**

Non-Compact Indian Tribe	Amount of Funds Recommended to be Distributed
Upper Lake Band of Pomo Indians	120,654.74
Washoe Tribe of Nevada & California	120,654.74
Yurok Tribe of the Yurok Reservation	120,654.74
Total	\$8,445,831.80¹

Footnotes:

1. The total amount of distribution to each tribe is subject to audit and verification by the Commission. Future distributions may be adjusted for any overpayments or underpayments that may have been made. If a tribe is subsequently determined to be a "Compact Tribe" by definition of the Compact, and is therefore not eligible for future distributions, any overpayments that may be made are subject to refund by a tribe(s) to the Commission. The above distributions are being recommended for distribution on a conditional basis and are subject to verification of eligibility. Distributions will only be made after receipt of a Tribal-State Compact Gaming Device Certification Form (CGCC-C2003.01) that indicates eligibility in accordance with the terms of the Compact.

EXHIBIT 2

CALIFORNIA GAMBLING CONTROL COMMISSION
0366 - INDIAN GAMING REVENUE SHARING TRUST FUND
FUND CONDITION STATEMENT
For the quarter ended September 30, 2003
Cash Basis

BEGINNING BALANCE	\$ 7,964,705.55
REVENUES AND TRANSFERS	
Revenues:	
150300 Income from surplus money investments	54,730.32
216900 License fees held in trust	8,401,187.94
Transfer from Indian Gaming Special Distribution Fund to IGRSTF for Shortfall per Assembly Bill No. 673 (Chapter 210, Statutes 2003) and Government Code Section 12090.90	<u>50,568,787.99</u>
Totals, Revenues	\$ <u>59,024,706.25</u>
Totals, Resources	\$ 66,989,411.80
EXPENDITURES	
Disbursements:	
Distribution	6,566,872.14
Fiscal Year 2002-03 Shortfall Distribution	<u>48,877,107.89</u>
Totals, Expenditures	\$ <u><u>55,443,980.03</u></u>
FUND BALANCE, prior to distribution	\$ 11,545,431.77
Disbursements, pending distribution	8,445,831.80
Assembly Bill No. 673 (Chapter 210, Statutes of 2003) and Government Code section 12090.90 reserve pending audit resolution	325,358.48
Previously approved funds and interest held on behalf of 2 tribes for future issuance pending resolution of tribal leadership	<u>2,774,240.83</u>
FUND BALANCE, after distribution	\$ <u><u>0.66</u></u>

Exhibit 3**Unaudited Amount of Revenue from Each Compact Tribe Received by the Commission Through September 30, 2003 for the Fiscal Year Ending June 30, 2004**

Compact Tribe	Revenue Received Fiscal Year to Date	Revenue Received Inception to Date
Agua Caliente Band of Cahuilla Indians	\$137,287.50	\$2,774,843.75
Alturas Indian Rancheria	0.00	0.00
Augustine Band of Mission Indians	0.00	437,500.00
Barona Band of Mission Indians	184,087.50	2,301,850.27
Bear River Band of the Rohnerville Rancheria	0.00	0.00
Berry Creek Rancheria	180,000.00	617,500.00
Big Sandy Rancheria	0.00	250,000.00
Big Valley Rancheria	0.00	500,000.00
Blue Lake Rancheria	187,500.00	187,500.00
Buena Vista Rancheria	0.00	1,812,500.00
Cabazon Band of Mission Indians	0.00	1,595,775.00
Cahto Indian Tribe of the Laytonville Rancheria	0.00	0.00
Cahuilla Band of Mission Indians	0.00	125,000.00
Campo Band of Diegueno Mission Indians	0.00	500,000.00
Chemehuevi Indian Tribe	0.00	75,000.00
Cher-Ae Heights Indian Community	0.00	0.00
Chicken Ranch Rancheria	0.00	0.00
Colusa Rancheria	0.00	312,500.00
Cuyapaipe Band of Mission Indians	678,061.19	2,437,433.22
Dry Creek Rancheria	0.00	4,173,246.58
Elem Indian Colony	0.00	0.00
Elk Valley Rancheria	0.00	0.00
Hoopa Valley Tribe	0.00	0.00
Hopland Band of Pomo Indians	0.00	1,156,250.00
Jackson Rancheria	0.00	1,331,250.00
Jamul Indian Village	0.00	0.00
La Jolla Band of Luiseno Indians	0.00	0.00
Manchester Point Arena Rancheria	0.00	0.00
Manzanita Band of Mission Indians	0.00	0.00
Middletown Rancheria	0.00	187,500.00
Mooretown Rancheria	0.00	625,000.00
Morongo Band of Mission Indians	0.00	497,300.00
Paiute Bishop Tribe	0.00	0.00
Pala Band of Mission Indians	768,750.00	10,381,284.25
Paskenta Band of Nomlaki Indians	31,250.00	437,500.00

Exhibit 3 (Continued)**Unaudited Amount of Revenue from Each Compact Tribe Received by the Commission Through September 30, 2003 for the Fiscal Year Ending June 30, 2004**

Compact Tribe	Revenue Received Fiscal Year to Date	Revenue Received Inception to Date
Pauma/Yuima Band of Mission Indians	0.00	625,000.00
Pechanga Band of Mission Indians	0.00	891,855.62
Picayune Rancheria	551,250.00	4,887,719.18
Pit River Tribe	0.00	0.00
Quechan Indian Nation	0.00	0.00
Redding Rancheria	0.00	437,500.00
Resighini Rancheria	0.00	0.00
Rincon Band of Mission Indians	0.00	5,090,625.00
Robinson Rancheria	0.00	275,000.00
Rumsey Rancheria	680,461.92	2,362,961.92
San Manuel Band of Mission Indians	449,100.00	3,032,347.81
San Pasqual Band of Diegueno Indians	285,000.00	3,848,671.23
Santa Rosa Indian Community	636,075.00	8,589,626.51
Santa Ynez Band	328,875.00	4,112,289.04
Sherwood Valley Rancheria	0.00	0.00
Shingle Springs Rancheria	426,250.00	1,238,750.00
Smith River Rancheria	0.00	0.00
Soboba Band of Mission Indians	216,262.50	2,128,630.59
Susanville Indian Rancheria	0.00	0.00
Sycuan Band of Mission Indians	1,169,925.00	7,314,435.21
Table Mountain Rancheria	0.00	4,237,437.50
Tule River Reservation	0.00	1,365,000.00
Tuolumne Rancheria	425,000.00	737,500.00
Twenty-Nine Palms Band of Mission Indians	344,625.00	4,653,853.77
United Auburn Indian Community	721,427.33	2,721,329.66
Viejas Band of Mission Indians	0.00	2,117,675.00
Totals	8,401,187.94	93,384,941.11
Interest	54,730.32	3,355,654.19
Grand Totals	\$8,455,918.26 ¹	\$96,740,595.30 ²

Footnotes:

1. See Exhibit 2 for a copy of a trust fund condition statement for the Fund for the quarter ended September 30, 2003, which is the most recent quarter-end for which a distribution has been recommended for payment.
2. Includes receipts totaling \$2,137,500 that were returned to payor tribes for the return of unused putative gaming device licenses. These licenses were made available for reissuance and were reissued on September 5, 2002.